

Remarks

The Examiner rejected claims 1-12 and 14-17 under 35 USC §103 as being unpatentable in view of U.S. Patent No. 4,685,223 to Long over U.S. Patent No. 2,978,817 to Brenner or U.S. Patent No. 2,715,285 to Del Vecchio. Based on the foregoing amendments and following remarks, Applicant submits the cited art does not teach or suggest all limitations of Applicant's claimed invention and that the rejections should be withdrawn.

Independent claim 1 requires an outsole with a flat top surface, a socklining on top of and in direct contact with the flat top surface, a cushion placed between the socklining and flat top surface, and a material partially covering a user's foot. Independent claim 1 also requires a securing mechanism extend from the material through the socklining and to the outsole for securing the socklining directly to the flat top surface.

Independent claims 9 and 14, all the remaining independent claims in the application, require a socklining in direct contact with the outsole and a notch in a side surface of the outsole for receiving the securing mechanism and hindering premature wear of the securing mechanism.

No reference teaches or suggests a socklining in direct contact with the outsole.

Long teaches away from Applicant's requirement for a socklining to be in direct contact with the outsole. All figures and col. 3, lines 1-20 teach that the upper is to fold over and under the socklining, thereby preventing the socklining from coming in direct contact with the outsole.

Brenner, particularly figure 4, shows the socklining to be spaced above and away from the outsole. No teaching or suggestion to the contrary is given. Del Vecchio also

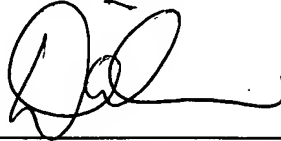
teaches the socklinig to be spaced apart from the outsole. As shown in figure 3, and where the socklining 25 is described in col. 3, lines 35-42 to be the same size as base layer 18, the socklining would not be able to contact the outsole since base layer 18 would be in the way.

In addition, no reference or combination of references relate to a combination of a flat top surface of an outsole and a socklining in direct contact with the flat top surface, all of which are required in claim 1. further, no reference or combination of references relate to a socklining in direct contact with the outsole and a notch in a side surface of the outsole for receiving the securing mechanism, all of which are required in claims 9 and 14.

In order for a combination of references to be properly modified in a rejection under 35 USC § 103, there must be some teaching or suggestion in the references to make the suggested modification. Absent the requisite teaching or suggestion, the modification would be improper since there is no motivation for one skilled in the art to make the modification. As mentioned above, there is no teaching or suggestion in any of the cited art to be modified to relate to a socklining in direct contact with an outsole, nevermind more specific requirements for a socklining in direct contact with a flat top surface of the outsole or an outsole with a notch in a side surface.

In view of the foregoing amendments and remarks, Applicant respectfully submits all claims are allowable over the cited art and that the rejections under 35 USC §103 should be withdrawn.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'G. Winter', written over a horizontal line.

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